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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,622	11/27/2005	Luigi Tessitore	A2701	5256

7590 11/19/2007  
Paul E Miliken  
9061 Wall Street, NW  
Massillon, OH 44646-1676

EXAMINER
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WILLIAMS, THOMAS J

ART UNIT	PAPER NUMBER
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3683

MAIL DATE	DELIVERY MODE
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11/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/527,622

**Applicant(s)**

TESSITORE ET AL.

**Examiner**

Thomas J. Williams

**Art Unit**

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 13-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 10 and 11 is/are rejected.
- 7) ☒ Claim(s) 7, 9 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Acknowledgment is made in the receipt of the priority papers and preliminary amendment filed March 11, 2005, and the oath filed November 25, 2005.

#### ***Election/Restrictions***

2. Applicant's election of Species A in the reply filed on October 1, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

#### ***Claim Objections***

3. Claim 6 is objected to because of the following informalities: line 3, the recitation "a web" should be changed to "the web". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 5 recites the limitation "the web" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 is rejected due to its dependence upon claim 5.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2,322,061 to Schnell.

Re-claims 1 and 4, Schnell discloses a parking brake comprising a drum 1, first 3 and second 4 brake shoe portions, a handbrake lever 45 is pivoted adjacent one end of shoe 4, a strut 39 extends between a first abutment (at 44) on the handbrake lever and a second abutment (at 35) on shoe 3, pivotal movement of the lever moves the brake shoes into contact with the drum, abutment 35 comprises a biased wedge means 33 which acts on the strut to take up play in the thrust path between the lever and shoe 3, hairpin spring 32 will prevent spring 42 from pulling the wedge member 33 upwardly when block 24 is moved in an outward direction (see page 2 column 1 lines 60-69) and as such functions as a means for disabling the wedging means 33 from operating.

Re-claims 2 and 3, see figures 1 and 2.

Re-claim 5, see figures 1 and 2, the wedge slides along plate 34 and an abutment of the strut.

Re-claim 6, see figure 2.

Re-claim 8, element 24 and hairpin spring 32 function as a releasable clamping means, since they cooperate to maintain the wedge out of contact with abutments, and as such clamp the wedge in place against the biasing force of the spring.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schnell in view of US 5,855,255 to Bock et al.

Re-claims 10 and 11, Schnell fails to teach a brake shoe clearance adjustment device located at the brake shoe end remote from the strut, wherein the device operates automatically in conjunction with operation of the lever.

Bock et al. teach a brake shoe clearance device that operates automatically when a brake lever is operated. It would have been obvious to one of ordinary skill in the art to have provided

the brake assembly of Schnell with an adjustment device located at the opposing ends of the brake shoes as taught by Bock et al., thus providing a means of compensating for wear of the brake shoes at the ends opposite the strut.

***Allowable Subject Matter***

12. Claims 7, 9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rupprecht teaches a wedging means used for taking up play between a strut and a brake shoe. The references listed on the PCT search report mailed May 2, 2004 have been considered by the examiner and have been listed on the PTO-892 mailed with this Office action. The individual references will not be provided by this Office.

14. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Wednesday-Friday from 6:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi, can be reached at 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

November 14, 2007

**THOMAS J. WILLIAMS**  
**PRIMARY EXAMINER**

*Thomas Williams*

*Art 3683*

*11-14-07*